

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

HAROLD WILSON

Defendant.

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**No. 3:05-CR-95
(PHILLIPS/SHIRLEY)**

ORDER

On March 8, 2006, the Honorable C. Clifford Shirley, United States Magistrate Judge, filed a 35-page Report and Recommendation (R&R) [Doc.22] in which he recommended that defendant's motion to suppress evidence [Doc. 11 and 20] be denied. This matter is presently before the Court on defendant's timely objections to the R&R [See Doc. 23].

As required by 28 U.S.C. § 636(b)(1), the Court has now undertaken a *de novo* review of those portions of the R&R to which the defendant objects. After doing so, the Court readily concludes that Judge Shirley has thoroughly and correctly analyzed the legal issues presented in defendant's motion to suppress. Thus, any further comment by the Court is unnecessary and would be repetitive.

In sum, the Court finds that based on the totality of the circumstances, the officers had reasonable, objective suspicion to conduct a Terry investigation, and, thus, seizure was constitutionally permissible. Further, the Court holds that the officer

reasonably believed that the defendant was potentially armed and dangerous, necessitating detention and a limited pat-down, or frisk, for weapons. Additionally, the Court finds that the automobile search was proper in that the officer was justified to reasonably believe that the defendant was armed and dangerous. Moreover, once the contraband was seized and the defendant was arrested, the cocaine discovered in the Copenhagen snuff can was properly seized pursuant to a search incident to the defendant's arrest. Lastly, the Court holds that the officer did properly advise the defendant of the Miranda warnings and that the defendant agreed to talk to the officers after being advised of his rights.

Accordingly, defendant's objections [Doc. 23] are hereby **OVERRULED** in their entirety, whereby the **R&R is ACCEPTED IN WHOLE**. Thus, defendant's motion to suppress evidence [Doc.11 and 20] is hereby **DENIED**.

ENTER:

s/Thomas W. Phillips
UNITED STATES DISTRICT JUDGE